

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:04-CR-56-2H
No. 4:12-CV-74-H

NATHAN PETWAY,)
Petitioner,)
v.) **ORDER**
UNITED STATES OF AMERICA,)
Respondent.)

This matter is before the court, on petitioner's Motion for Reconsideration, dated January 9, 2013, in which petitioner moves the court to reconsider its judgment, entered August 6, 2012, dismissing his 28 U.S.C. § 2255 motion as successive.

Courts have generally recognized three grounds for altering or amending judgments. See Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Specifically, courts will alter or amend "an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Id.

The court has carefully reviewed petitioner's motion for reconsideration, as well as the record in this matter, and finds no reason to alter or end its judgment. On November 27, 2007, petitioner filed a motion to vacate his sentence raising a

number of issues, including ineffective assistance of trial and appellate counsel. On November 18, 2010, this court denied petitioner's claims on the merits. Petitioner's motion filed on December 2, 2011, as amended on May 1, 2012, is successive. Absent a certificate of appealability issued by the circuit court, this court is without jurisdiction to consider petitioner's motion. Accordingly, the court DENIES petitioner's motion for reconsideration [DE #204] and reaffirms its judgment entered August 6, 2012, dismissing without prejudice petitioner's motion to vacate.

This order does not raise a substantial issue for appeal concerning the denial of a constitutional right. Accordingly, a certificate of appealability is not issued as to this order.

This 7th day of May 2013.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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